



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 25-1062: PENALTY FOR THEFT OF FIREARMS

#### Prime Sponsors:

Rep. Armagost; Duran

Sen. Hinrichsen; Pelton B.

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**Fiscal note status:** This revised fiscal note reflects the reengrossed bill. In addition to accounting for amendments adopted in the House, the fiscal note makes a technical correction to Judicial Department costs for capital outlay.

### Summary Information

**Overview.** The bill makes theft of a firearm a class 6 felony regardless of the value of the firearm stolen.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis starting in FY 2025-26:

- State Revenue
- State Expenditures
- Local Government

**Appropriations.** For FY 2025-26, the bill requires an appropriation of \$324,225 to the Judicial Department; see State Appropriations section.

**Table 1**  
**State Fiscal Impacts**

Type of Impact <sup>1</sup>	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$3,750	\$11,624
State Expenditures	\$387,019	\$931,285
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$3,750	\$11,624
Change in State FTE	2.8 FTE	2.8 FTE

<sup>1</sup> Fund sources for these impacts are shown in the tables below.

**Table 1A  
State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
General Fund	\$0	\$0
Cash Funds	\$3,750	\$11,624
<b>Total Revenue</b>	<b>\$3,750</b>	<b>\$11,624</b>

**Table 1B  
State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
General Fund	\$324,225	\$868,491
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$62,794	\$62,794
<b>Total Expenditures</b>	<b>\$387,019</b>	<b>\$931,285</b>
<b>Total FTE</b>	<b>2.8 FTE</b>	<b>2.8 FTE</b>

## Summary of Legislation

Under current law, the crime of theft carries penalties ranging from a petty offense to a class 2 felony depending on the value of the item stolen. The bill makes theft of a firearm a class 6 felony regardless of the value of the stolen firearm.

## Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

### Prior Conviction Data

This bill reclassifies the existing offense of theft by making theft of a firearm a class 6 felony. To form an estimate on the prevalence of this new classification, the fiscal note analyzed the existing offense of second degree burglary of a firearm, a class 3 felony, as a comparable crime.

From FY 2021-22 to FY 2023-24, 26 persons have been convicted and sentenced for this existing offense. Of the persons convicted, 23 were male and 3 were female. Demographically, 20 were White, 4 were Black/African-American, 1 was Hispanic, and 1 was American Indian.

## **Assumptions**

The Comparable Crime Analysis shows the prevalence of second degree burglary of a firearm because this is the only property crime where firearms are specifically tracked in available sentencing data. However, burglary and theft are sufficiently different in criminal elements that burglaries of firearms are an unreliable indicator of the prevalence of firearm thefts. The sections below provide assumptions to estimate the prevalence of firearm theft.

### **Prevalence of Firearm Theft**

Generally, theft offenses are based on the value of items stolen, not which items are stolen. By making theft of any firearm a class 6 felony regardless of value, the bill changes a number of firearm theft cases from a misdemeanor to a felony.

Additional data was used to estimate firearm theft prevalence for the purposes of this analysis.<sup>1</sup> Between 2019 and 2023, there were an average of 3,512 firearms thefts per year from private citizens in Colorado reported by local law enforcement to the Federal Bureau of Investigation's National Crime Information Center. In that same time period, an average of about 887 stolen firearms were recovered per year. Not all recoveries necessarily lead to the filing of criminal charges, as charges may be dropped for a variety of reasons prior to the filing of a criminal case. This analysis assumes that 70 percent of these annual stolen firearm recoveries (621) result in the filing of criminal charges and subsequently generate cases.

### **Felony Cases—Judicial Department Impacts**

Not all of the cases resulting from firearm thefts would become standalone felony cases under the bill for several reasons. Some of these cases may involve firearms valued at \$2,000 or more, which means they would already be prosecuted as a felony. Additionally, a single offender may have a misdemeanor theft charge for a firearm as part of a more serious felony case. Even so, most firearm theft incidents involve a single firearm, and most stolen firearms are handguns valued at less than \$2,000. Based on these factors, this analysis assumes that 70 percent of the above number of cases filed are currently misdemeanor cases and would become standalone felony cases under the bill.

This means that the bill will generate approximately 435 felony cases in the district courts and a corresponding decrease in misdemeanor cases in county courts.

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<sup>1</sup> National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns — Volume IV — Part II — Firearm Thefts and Losses Updates and New Analysis. <https://www.atf.gov/firearms/national-firearms-commerce-and-trafficking-assessment-nfcta-firearms-trafficking-volume-four>

## Sentencing—Department of Corrections Impacts

To form an estimate of how many people may be sentenced to the DOC as a result of this bill, this analysis makes two assumptions. First, not all felony cases generated by the bill will result in a conviction and thus a sentence to the DOC. Based on a review of case resolution data from the [Colorado Prosecutorial Dashboards project](#), about 64 percent of felony cases are, on average, resolved by a guilty verdict or guilty plea. Of the 435 felony cases assumed to be generated by the bill, this analysis estimates that about 278 cases will result in a conviction and then move on to sentencing. Courts have the discretion to impose a sentence to the DOC or probation. Since a class 6 felony is the lowest felony classification, and based on information from the Judicial Department, this analysis assumes that about 10 percent of class 6 felony convictions under the bill will result in a sentence to the DOC, or about 28 new admissions per year. Once offenders are released from the DOC, they are then placed on parole.

## State Revenue

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On net, the bill increases state revenue from criminal fines and court fees by \$3,750 in FY 2025-26, and by \$11,624 beginning in FY 2026-27. Revenue is credited to various cash funds in the Judicial Department. Amounts reflect average assessed amounts for misdemeanor and felony cases, indigency rates, and actual collection percentages. This revenue is subject to TABOR.

## State Expenditures

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The bill increases state expenditures by about \$390,000 in FY 2025-26, \$930,000 in FY 2026-27, and by increasing amounts in subsequent years. These costs will be incurred in the Judicial Department and the Department of Corrections as shown in Tables 2 through 2B and described in the sections below. Costs are paid from the General Fund.

**Table 2**  
**State Expenditures**  
**All Departments**

<b>Department</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
Judicial Department	\$387,019	\$373,519
Department of Corrections	\$0	\$557,766
<b>Total Costs</b>	<b>\$387,019</b>	<b>\$931,285</b>

## Judicial Department

The bill increases costs to the trial courts and increases workload to probation and offices that represent indigent offenders, as described below. Costs are summarized in Table 2A.

**Table 2A**  
**State Expenditures**  
**Judicial Department**

<b>Cost Component</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
Personal Services	\$301,165	\$301,165
Operating Expenses	\$8,360	\$8,360
Capital Outlay Costs	\$14,700	\$1,200
Centrally Appropriated Costs	\$62,794	\$62,794
<b>Total Costs</b>	<b>\$387,019</b>	<b>\$373,519</b>
<b>Total FTE</b>	<b>2.8 FTE</b>	<b>2.8 FTE</b>

## Trial Courts

Starting in FY 2025-26, the Judicial Department requires an additional 2.8 FTE, which includes 0.7 FTE magistrate and 2.1 FTE support staff. This is based on the assumption that one county court judge can process 2,708 misdemeanor cases per year, and one district court judge can process 468 felony cases per year. Using the assumed number of cases going from a misdemeanor to a felony, and assuming 10 percent of the misdemeanor cases occur in Denver County Court, this results in the need of 0.7 FTE magistrate. Per Judicial Department common policies, each magistrate requires support staff at a 3-to-1 ratio, resulting in a need of 2.1 FTE support staff.

Staffing costs include standard operating expenses and capital outlay costs. In addition, pursuant to Judicial Department common policies, magistrates also require \$3,500 in additional capital outlay for courtroom technology and an additional \$4,800 in operating for robes, a law library, and travel costs. Capital outlay amounts also reflect the inclusion of annual computer software costs for all employees, per Judicial Department common policies.

## Probation

The bill impacts the Division of Probation in two ways. First, it will increase workload for pre-sentence investigations by moving cases from a lower classification to a higher one. Next, it will decrease probation workload from the possibility that cases may be sentenced to the Department of Corrections (DOC) instead of probation. The overall impact of these two factors is expected to result in minimal impacts to workload. No change in appropriations is required.

## Independent Agencies

The bill will increase workload and costs in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. The exact impact will depend on how many cases are assigned to these agencies, which cannot be estimated at this time. Should a change in funding be required for these agencies, the fiscal note assumes it will be addressed through the annual budget process.

## Department of Corrections

Section 2-2-701, C.R.S., requires Legislative Council Staff to provide information to the General Assembly on long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections. These impacts are described below.

### DOC Prison and Parole Costs (Five-year Fiscal Impact)

Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of about \$2.6 million over the five-year period beginning in FY 2025-26. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. The parole impact is assumed to first occur in FY 2026-27. Table 2B shows the estimated cost of the bill over the next five fiscal years.

**Table 2B**  
**Prison and Parole Operating Costs**

<b>Fiscal Year</b>	<b>Prison ADP Impact</b>	<b>Prison Cost</b>	<b>Parole ADP Impact</b>	<b>Parole Cost</b>	<b>Total Cost</b>
FY 2025-26	0.00	\$0	0.00	\$0	\$0
FY 2026-27	19.72	\$488,288	8.28	\$69,478	\$567,702
FY 2027-28	19.72	\$488,288	22.89	\$191,994	\$693,154
FY 2028-29	19.72	\$488,288	22.89	\$191,994	\$693,154
FY 2029-30	19.72	\$488,288	22.89	\$191,994	\$693,154
<b>Total Five-Year Cost</b>		<b>\$1,953,153</b>		<b>\$645,461</b>	<b>\$2,598,614</b>

## DOC Capital Construction Costs

In addition to the five-year operating and parole impacts discussed above, Section 2-2-703, C.R.S., requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$8.3 million would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General

Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

## Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in the expenditure tables above.

## TABOR Refunds

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

## Local Government

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Beginning in FY 2025-26, this bill is expected to both increase and decrease local government workload and costs, as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

### District Attorneys

By changing the classification of theft of a firearm to a class 6 felony, the bill will increase workload and costs for district attorneys to prosecute these cases since under current law some of these cases are prosecuted as misdemeanors. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

### County Jails

Based on the assumptions listed in the Comparable Crime Analysis section, the bill will mostly decrease county jail costs since fewer offenders will be sentenced to jail. However, costs may increase from holding offenders that are sentenced to the DOC. County jails are funded by counties, and receive state funding for any DOC offenders held.

## Denver County Court

The bill decreases revenue, workload, and costs for the Denver County Court, which is managed and funded by the City and County of Denver, to try fewer cases under the bill. Probation services in the Denver County Courts may also experience a decrease in revenue, costs, and workload to supervise fewer offenders.

## Effective Date

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

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For FY 2025-26, the bill requires a General Fund appropriation of \$324,225 to the Judicial Department, and 2.8 FTE. The bill currently includes an appropriation of \$323,825 based on the estimate in the previous version of the fiscal note.

## State and Local Government Contacts

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Corrections

Natural Resources

District Attorneys

Public Safety

Judicial

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).